IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1542 OF 2007

Mikra Bhayander Municipal Corporation.... Petitioner

versus

Anil Ramchandra Goyal ..... Respondent.

Shri S.M. Oak i/b Sagar Joshi for the petitioner.
Shri N.V.Walawalkar Sr. Adv. i/b S.A.Sawant for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 25TH OCTOBER, 2007

P.C.;

1. Apprehending demolition of the building in violation of a statusquo order passed by the trial court, the respondent moved an application and sought police protection. Police protection was granted by the trial court by an order dated 28-10-2006. Perusal of the said order reveals that the order dated 28-10-2006 is an ex-parte order and an ad-hoc order in nature, in as much as the statusquo order was to continue till 10-11-2006. The present petitioner moved an application for setting aside the order dated 28-10-2006 and the rejection of the said application by the trial court by order dated 24-11-2006 has given rise to the filing of the present Writ Petition.

2. It appears that for last one year police protection is made available, pending consideration of the application claiming temporary injunction. The temporary injnction application has been decided by the trial court vide order dated 12-7-2007, which order, I am informed, has not been challenged by either of the parties till today. By the said order, the present petitioner has been restrained from demolishing the building without following due process of law. It is further clarified that the present petitioner/defendants are at liberty to carry out the inspection of the building/suit premises and proceed in accordance with the law if found illegal or unauthorised. Thus, in view of the order dated 12-7-2007 there is no need to continue the police protection, as the trial court order directs the petitioner not to proceed to demolish the building without following due process of law. Hence the order dated 28-10-06 is quashed and set aside in view of the order dated 12-7-2007. Rule made absolute in above terms.

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